

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PURCELL BRONSON,

Plaintiff,

vs.

MELISSA REIFER,

Defendant.

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Civil Action No. 3:20-cv-202  
Judge Stephanie L. Haines

**MEMORANDUM ORDER**

This is a civil rights case brought by Purcell Bronson (“Plaintiff”) relating to alleged abuse he received while incarcerated at State Correctional Institution-Houtzdale (“SCI-Houtzdale”) from Defendant Melissa Reifer (“Defendant”), an employee at SCI-Houtzdale. This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

Plaintiff initially filed his complaint in Clearfield County Court of Common Pleas, which Defendant removed to this Court on October 7, 2020 (ECF No. 1). In his complaint, Plaintiff alleges that he was physically and sexually assaulted by Defendant while attempting to leave the kitchen at SCI-Houtzdale, and that this assault occurred because Plaintiff had refused Defendant’s prior sexual advances (ECF No. 1-2 at ¶7). On October 26, 2020, Defendant filed an answer to the complaint (ECF No. 2), and that same day, filed a motion for judgment on the pleadings seeking dismissal of certain claims in the complaint (ECF No. 3) and brief in support of that motion (ECF No. 4). Specifically, Defendant’s motion for judgment on the pleadings (ECF No. 3) requests that the Court enter judgment in favor of Defendant and against Plaintiff on all claims asserted under the Pennsylvania Constitution, all claims asserted under the First Amendment, and all claims

asserted under the Fourteenth Amendment. On December 8, 2020, Plaintiff filed a response to the motion for judgment on the pleadings contending that he had clearly set forth his claims and right to be free from sexual harassment and retaliation (ECF No. 5).

On June 22, 2021, Magistrate Judge Pesto issued a Report and Recommendation (ECF No. 6) that recommended that the Defendant's motion for judgment on the pleadings be granted and, other than the Plaintiff's Eighth Amendment claim against Defendant in her individual capacity, the complaint should be dismissed without leave to amend (ECF No. 6). The parties were notified that they had fourteen days to file objections to Magistrate Judge Pesto's Report and Recommendation (ECF No. 6) pursuant to 28 U.S.C. § 636 (b)(1). To date, no party has filed objections and the time to do so has expired.

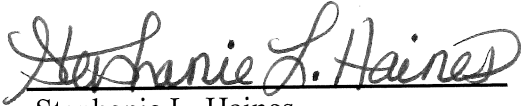
After a review of the documents of record in this matter and the Report and Recommendation (ECF No. 6) under the "reasoned consideration" standard, *see EEOC V. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), the Court will accept in whole the findings and recommendations of Magistrate Judge Pesto in this matter. Magistrate Judge Pesto correctly concluded that Plaintiff has no private cause of action against Defendant under the Pennsylvania Constitution, Plaintiff failed to establish that he was engaging in any constitutionally protected conduct to establish a claim for retaliation under the First Amendment against Defendant, and Plaintiff failed to identify any protected liberty interest to establish a Fourteenth Amendment claim against Defendant. Additionally, though Defendant did not move to dismiss Plaintiff's Eighth Amendment claims, Magistrate Judge Pesto correctly concluded that Plaintiff cannot maintain an Eighth Amendment claim against Defendant in her official capacity. Lastly, Magistrate Judge Pesto also correctly concluded that amendment of Plaintiff's claims would be futile.

Accordingly, the following order is entered:

**ORDER**

AND NOW, this 10<sup>th</sup> day of August, 2021, for the reasons set forth in Magistrate Judge Keith A. Pesto's Report and Recommendation (ECF No. 6), which is adopted as the opinion of the Court, IT IS ORDERED that Defendant's Motion for Judgment on the Pleadings (ECF No. 3) is GRANTED; and,

IT IS FURTHER ORDERED that Plaintiff's claims under Pennsylvania's Constitution, the First Amendment, the Fourteenth Amendment, and Plaintiff's Eighth Amendment claim against Defendant in her official capacity are hereby DISMISSED WITH PREJUDICE.

  
Stephanie L. Haines  
United States District Judge